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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

AMANDA G.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES et al.,

Real Parties in Interest.

No. B197221

(Los Angeles County
Super. Ct. No. CK24621)

ORIGINAL PROCEEDINGS in mandate. Steven Berman, Referee. Petition denied.

Law Offices of Katherine Anderson and Victoria Doherty for Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel and William D. Thetford, Senior Deputy County Counsel for Real Party in Interest Los Angeles County Department of Children and Family Services.

Children's Law Center of Los Angeles and Jennifer McCartney for Minors.

By petition for writ of mandate, mother Amanda G. challenges the juvenile court order terminating her reunification services and setting a permanency planning hearing for her children. We deny the requested relief.

FACTUAL AND PROCEDURAL SUMMARY

In the fall of 2004, father Juan L. was given full custody of Juan¹ (age 6) and Ashley (age 8) by the family law court based on mother's homelessness and instability. In May 2005, the parents agreed to allow Juan to reside with his mother, but did not seek a change in the family court order. A mandated reporter from the family law court called the Department of Children and Family Services (Department), reporting that Juan was at substantial risk of abuse by his mother based on this change in custody. While this referral was being investigated, father was arrested for possession of cocaine, and for endangering Ashley by possessing the cocaine in her proximity.

The children were detained in June 2005 and a Welfare and Institutions Code section 300² petition was filed on their behalf. Violet was born in late August 2005, and a section 300 petition was filed on her behalf in September 2005.

The juvenile court found all three children to be dependents under section 300. Among the sustained allegations were findings that Ashley and Juan had been inappropriately physically disciplined by their father; that father had established a detrimental and endangering home environment because he possessed illicit drugs in the children's home and in their presence; that mother "has been diagnosed with mental and emotional problems including Bi Polar Disorder and Major Depression" which limits her ability to provide the children with regular care and supervision; that mother's condition and limitations endanger the children's physical and emotional health and safety and creates a detrimental home environment; and that mother has failed to provide the children with a stable home environment and that prior DCFS services have failed to

¹ We refer to the child as "Juan" and to the father as "Juan L."

resolve the family problems. The court also found that mother and her male companion, Ralph G., have a history of engaging in violent physical altercations; that on one occasion, Ralph G. struck mother; that Ashley had been a prior dependent of the juvenile court; and that the juvenile court and DCFS services had failed to resolve the family problems. Ashley and Juan were placed together in foster care. Violet was placed in a different foster home.

The parents³ were given monitored visitation, and mother was ordered to participate in individual counseling and parenting, to take all prescribed psychotropic medications, to participate in psychiatric counseling, and to address anger management in her individual counseling. Mother attended parenting classes, domestic violence classes, and anger management classes with Alma Family Services from August to October 2005. She then began treatment at Rio Hondo Mental Health Center, where she was prescribed medication to treat her bipolar disorder and was provided with individual counseling and therapy. She was enrolled in parenting classes, anger management classes, and domestic violence classes. She attended family counseling with Ashley and Juan, and the children also had individual therapy. As of February 2006, the court found mother in compliance with the case plan.

The social worker's report for August 29, 2006, described an incident in which Violet's father, Robert T., alerted the social worker that mother was storing drugs in a stuffed animal at her home. The social worker investigated and found drugs. Mother informed the social worker that her home had been broken into a few days before, and insisted she had been framed. Two weeks later, mother reported she had been beaten by two women, who said, "[T]his is for Mr. T[.]" Mother sustained injuries to her chest, arm and leg. Although a supervisor for the Department arranged for mother to move to a

² All statutory references are to this code.

³ Violet's father, Robert T., advised the court that he did not want to participate in the court proceedings and wanted no involvement with the child. He later signed an affidavit stating he did not wish to receive reunification services, and that he intended to relinquish his parental rights.

shelter, mother stayed at her residence and locked herself in for a few days. Mother admitted to the social worker that she is paranoid and thinks people are following her. According to the social worker, “Although mother has made significant effort to comply with court orders for counseling and parenting classes, she has also continued to demonstrate some instability in regards to her emotional well-being.”

The case was assigned to a new social worker, Beverly Myers, in October 2006. Ms. Myers met with mother in early October and discussed mother’s progress in her court-ordered programs. Mother had discontinued her counseling at Rio Hondo. Ms. Myers explained that according to the Department’s records, mother had only partially complied with the order for individual counseling. Mother stated she was receiving her medication from her regular physician, but Ms. Myers advised mother that she was required to go to a psychiatrist approved by the Department. Mother was given a referral for mental health services, and began treatment on November 8, 2006.

In her January 18, 2007 report, Ms. Myers reported that mother had not been consistent with her individual counseling, having participated in only five sessions since September 2006. Due to her short time in counseling, mother’s new therapist was unable to make a recommendation as to the suitability of reunification. Although mother appeared to be stable, the social worker was concerned about her history of emotional instability, including hospitalization for suicidal ideation. Ms. Myers also was concerned that mother was living in the home of Ralph G., with whom she had a history of domestic violence. There had been three sexual abuse referrals against Ralph G. regarding Ashley. Although they were deemed to be unfounded, mother had indicated she suspected Ralph had been sexually abusing Ashley for years.

Ashley and Juan’s foster parents were identified as potential adoptive parents for them, and Violet’s foster mother was identified as a potential adoptive parent for her. The Department recommended termination of mother’s reunification services.⁴

⁴ Reunification services were terminated for Juan L. and Robert T. in September 2006. Neither father is a party to this appellate proceeding.

Animosity between mother and Robert T. and his wife resulted in mother seeking a restraining order against them in January 2007.⁵ According to mother, they had made verbal threats against her. A temporary restraining order issued. On February 23, 2007, the court conducted a hearing on the restraining order. Mother and Robert T. both testified with regard to threats, e-mail communications, and other conduct involving them and Robert T.'s wife. The court found there was no evidence of recent violent conduct or verbal threats, and denied the restraining order.

It then proceeded to the contested section 366.22 review hearing. Mother testified, as did her former and current social workers, her therapist, Ashley and Juan, and her friend and roommate, Ralph G. The court did not credit portions of mother's testimony, did not find mother was working on the necessary issues in therapy, and was concerned about her stability as shown by her communications with Robert T. and his wife. Although mother had participated in different domestic violence and parenting classes, and had three different counselors, the court found "[t]here's no evidence she's made any substantive, let alone, substantial progress."

The court found that returning the children to mother's custody would be detrimental to their well-being, and that reasonable efforts had been made to reunite mother with the children. Mother's reunification services were terminated and a permanency planning hearing was set for June 28, 2007. Mother challenges this order by petition for extraordinary writ.

⁵ In a separate proceeding, Robert T. had obtained a restraining order against mother.

DISCUSSION

Mother claims the court erred in finding at the section 366.22 review hearing that the Department had provided reasonable family reunification services. She asserts three deficiencies in the services provided.

First, mother claims that after her former social worker, Tien Ngo, advised her to stop attending counseling at Rio Hondo, the social worker did not give her a referral for a different therapist. Mother testified that she left Rio Hondo in July or August 2006, when Ms. Ngo became concerned for her safety because Robert T. had learned the location of mother's counseling. Ms. Ngo admitted she did not give mother additional referrals after mother left Rio Hondo. Beverly Myers was assigned as mother's social worker on September 26, 2006, and met with mother on October 6, 2006. At this first meeting, Ms. Myers provided mother with a referral for mental health services. The relatively brief period during which mother did not receive new counseling referrals did not deprive her of reasonable reunification services.

Mother's next claim is that Ms. Myers did not communicate with the new therapist, Dr. Jennifer Hung, to adequately apprise her of the case history and mother's treatment goals. Dr. Hung testified that she had one conversation with the social worker, and did not receive any documentation or history about the case. But Dr. Hung also testified that she was part of mother's treatment team, which included a psychiatrist and a case manager. She explained that the three members of the treatment team communicate with each other about mother's progress, either directly or through the case manager. The fact that the social worker did not give Dr. Hung detailed information about the dependency proceedings and mother's treatment goals does not establish that the treatment team as a whole lacked sufficient information about the case.

More importantly, mother herself failed to provide Dr. Hung with relevant information about her case and her treatment goals. Dr. Hung let mother dictate what she would like to talk about during her therapy sessions, and mother frequently chose to talk about her visits with the children and the court case. Mother told Dr. Hung her children

were in the dependency system because the father of the two older children had drugs in the home, providing an unsafe environment for them. She did not tell Dr. Hung that she had been involved in domestic violence incidents with a former boyfriend, or that the father had physically disciplined the children with a belt. The Department is not required to “take the parent by the hand and escort him or her to and through classes and counseling sessions.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) Even where a parent suffers from mental or emotional problems, he or she still must take some responsibility for remediating the conduct which required the intervention of the juvenile court. (See *In re Christina L.* (1992) 3 Cal.App.4th 404, 414-415.)

Finally, mother questions whether she received an appropriate referral for mental health services, since Dr. Hung indicated she was not an evaluator and could not make recommendations as to whether or not mother and her children should be reunited. Again, we note that Dr. Hung was part of a treatment team. Asked if she could make a recommendation about reuniting mother and children, she replied: “I’m not able to do that given that my role in this case is the treating clinician and not *the* evaluator.” (Emphasis added.) From this, we infer that other members of the treatment team are charged with making such evaluations and recommendations. The record supports the finding that mother received reasonable reunification services.

But even if there were insufficient evidence of reasonable services, “[a]t the critical juncture of the 18-month hearing, the authority of the juvenile court to set a section 366.26 hearing is *not* conditioned on a reasonable services finding. In mandatory, unequivocal terms, section 366.22, subdivision (a) states that if the minor is not returned to parental custody at the 18-month review, ‘the court *shall* order that a hearing be held pursuant to Section 366.26 The hearing *shall* be held no later than 120 days from the date of the permanency review hearing. The court *shall* also order termination of reunification services to the parent The court *shall* determine whether reasonable services have been offered or provided to the parent’” (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1511.) Section 366.22 does not prohibit the court from

ordering a section 366.26 hearing even if it finds reasonable reunification services have not been provided to a parent. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1015-1016.)

There is no basis for relief based on inadequate services, and mother has not challenged the termination of services and setting of the permanency planning hearing on any ground other than the reasonable services finding.

DISPOSITION

The petition is denied.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.